

Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000-19,999 subscribers.¹⁴⁴ Thus, under this second size standard, most cable systems are small.

49. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."¹⁴⁵ The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.¹⁴⁶ Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard.¹⁴⁷ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million,¹⁴⁸ and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

50. *Open Video Services.* Open Video Service (OVS) systems provide subscription services.¹⁴⁹ The SBA has created a small business size standard for Cable and Other Program Distribution.¹⁵⁰ This standard provides that a small entity is one with \$13.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, and some of these are currently providing service.¹⁵¹ Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, D.C., and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 24 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

3. Internet Service Providers

51. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to

¹⁴⁴ Warren Communications News, *Television & Cable Factbook 2006*, "U.S. Cable Systems by Subscriber Size," page F-2 (data current as of Oct. 2005). The data do not include 718 systems for which classifying data were not available.

¹⁴⁵ 47 U.S.C. § 543(m)(2); see 47 C.F.R. § 76.901(f) & nn. 1-3.

¹⁴⁶ 47 C.F.R. § 76.901(f); see Public Notice, *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, DA 01-158 (Cable Services Bureau, Jan. 24, 2001).

¹⁴⁷ These data are derived from: R.R. Bowker, *Broadcasting & Cable Yearbook 2006*, "Top 25 Cable/Satellite Operators," pages A-8 & C-2 (data current as of June 30, 2005); Warren Communications News, *Television & Cable Factbook 2006*, "Ownership of Cable Systems in the United States," pages D-1805 to D-1857.

¹⁴⁸ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. See 47 C.F.R. § 76.909(b).

¹⁴⁹ See 47 U.S.C. § 573.

¹⁵⁰ 13 C.F.R. § 121.201, NAICS code 517510.

¹⁵¹ See <<http://www.fcc.gov/csb/ovs/csovsccer.html>> (current as of March 2002).

Internet connectivity.”¹⁵² Under the SBA size standard, such a business is small if it has average annual receipts of \$23 million or less.¹⁵³ According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year.¹⁵⁴ Of these, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

4. Other Internet-Related Entities

52. *Web Search Portals.* Our action pertains to VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the Census Bureau has identified firms that “operate web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format. Web search portals often provide additional Internet services, such as e-mail, connections to other web sites, auctions, news, and other limited content, and serve as a home base for Internet users.”¹⁵⁵ The SBA has developed a small business size standard for this category; that size standard is \$6.5 million or less in average annual receipts.¹⁵⁶ According to Census Bureau data for 2002, there were 342 firms in this category that operated for the entire year.¹⁵⁷ Of these, 303 had annual receipts of under \$5 million, and an additional 15 firms had receipts of between \$5 million and \$9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

53. *Data Processing, Hosting, and Related Services.* Entities in this category “primarily ... provid[e] infrastructure for hosting or data processing services.”¹⁵⁸ The SBA has developed a small business size standard for this category; that size standard is \$23 million or less in average annual receipts.¹⁵⁹ According to Census Bureau data for 2002, there were 6,877 firms in this category that operated for the entire year.¹⁶⁰ Of these, 6,418 had annual receipts of under \$10 million, and an additional 251 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

54. *All Other Information Services.* “This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives).”¹⁶¹ Our action

¹⁵² U.S. Census Bureau, “2002 NAICS Definitions: 518111 Internet Service Providers”; <http://www.census.gov/epcd/naics02/def/NDEF518.HTM>.

¹⁵³ 13 C.F.R. § 121.201, NAICS code 518111.

¹⁵⁴ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4, NAICS code 518111 (issued Nov. 2005).

¹⁵⁵ U.S. Census Bureau, “2002 NAICS Definitions: 518112 Web Search Portals”; <http://www.census.gov/epcd/naics02/def/NDEF518.HTM>.

¹⁵⁶ 13 C.F.R. § 121.201, NAICS code 518112.

¹⁵⁷ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4, NAICS code 518112 (issued Nov. 2005).

¹⁵⁸ U.S. Census Bureau, “2002 NAICS Definitions: 518210 Data Processing, Hosting, and Related Services”; <http://www.census.gov/epcd/naics02/def/NDEF518.HTM>.

¹⁵⁹ 13 C.F.R. § 121.201, NAICS code 518210.

¹⁶⁰ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4, NAICS code 518210 (issued Nov. 2005).

¹⁶¹ U.S. Census Bureau, “2002 NAICS Definitions: 519190 All Other Information Services”; <http://www.census.gov/epcd/naics02/def/NDEF519.HTM>.

pertains to VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is \$6.5 million or less in average annual receipts.¹⁶² According to Census Bureau data for 2002, there were 155 firms in this category that operated for the entire year.¹⁶³ Of these, 138 had annual receipts of under \$5 million, and an additional four firms had receipts of between \$5 million and \$9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

55. *Internet Publishing and Broadcasting.* "This industry comprises establishments engaged in publishing and/or broadcasting content on the Internet exclusively. These establishments do not provide traditional (non-Internet) versions of the content that they publish or broadcast."¹⁶⁴ The SBA has developed a small business size standard for this census category; that size standard is 500 or fewer employees.¹⁶⁵ According to Census Bureau data for 2002, there were 1,362 firms in this category that operated for the entire year.¹⁶⁶ Of these, 1,351 had employment of 499 or fewer employees, and six firms had employment of between 500 and 999. Consequently, we estimate that the majority of these firms small entities that may be affected by our action.

56. *Software Publishers.* These companies may design, develop or publish software and may provide other support services to software purchasers, such as providing documentation or assisting in installation. The companies may also design software to meet the needs of specific users.¹⁶⁷ The SBA has developed a small business size standard of \$23 million or less in average annual receipts for all of the following pertinent categories: Software Publishers, Custom Computer Programming Services, and Other Computer Related Services.¹⁶⁸ For Software Publishers, Census Bureau data for 2002 indicate that there were 6,155 firms in the category that operated for the entire year.¹⁶⁹ Of these, 7,633 had annual receipts of under \$10 million, and an additional 403 firms had receipts of between \$10 million and \$24,999,999. For providers of Custom Computer Programming Services, the Census Bureau data indicate that there were 32,269 firms that operated for the entire year.¹⁷⁰ Of these, 31,416 had annual receipts of under \$10 million, and an additional 565 firms had receipts of between \$10 million and \$24,999,999. For providers of Other Computer Related Services, the Census Bureau data indicate that there were 6,357

¹⁶² 13 C.F.R. § 121.201, NAICS code 519190.

¹⁶³ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 519190 (issued Nov. 2005).

¹⁶⁴ U.S. Census Bureau, "2002 NAICS Definitions: 516110 Internet Publishing and Broadcasting"; <http://www.census.gov/epcd/naics02/def/NDEF516.HTM>.

¹⁶⁵ 13 C.F.R. § 121.201, NAICS code 516110.

¹⁶⁶ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 516110 (issued Nov. 2005).

¹⁶⁷ See U.S. Census Bureau, "2002 NAICS Definitions: 511210 Software Publishers"; <http://www.census.gov/epcd/naics02/def/NDEF511.HTM>.

¹⁶⁸ 13 C.F.R. § 121.201, NAICS codes 511210, 541511, and 541519.

¹⁶⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 511210 (issued Nov. 2005).

¹⁷⁰ U.S. Census Bureau, 2002 Economic Census, Subject Series: Professional, Scientific, and Technical Services, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 541511 (issued Nov. 2005).

firms that operated for the entire year.¹⁷¹ Of these, 6,187 had annual receipts of under \$10 million, and an additional 101 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of the firms in each of these three categories are small entities that may be affected by our action.

5. Equipment Manufacturers

57. The disability access requirements we adopt today apply to manufacturers of specialized VoIP equipment and CPE. The following entities include those that may be affected by the actions we take in this *Order*.

58. *Telephone Apparatus Manufacturing*. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways."¹⁷² The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which is: all such firms having 1,000 or fewer employees.¹⁷³ According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year.¹⁷⁴ Of this total, 511 had employment of under 1,000, and an additional 7 had employment of 1,000 to 2,499.¹⁷⁵ Thus, under this size standard, the majority of firms can be considered small.

59. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment."¹⁷⁶ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees.¹⁷⁷

¹⁷¹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Professional, Scientific, and Technical Services, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 541519 (issued Nov. 2005).

¹⁷² U.S. Census Bureau, 2002 NAICS Definitions, "334210 Telephone Apparatus Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹⁷³ 13 C.F.R. § 121.201, NAICS code 334210.

¹⁷⁴ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334210 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 450.

¹⁷⁵ *Id.* An additional 4 establishments had employment of 2,500 or more.

¹⁷⁶ U.S. Census Bureau, 2002 NAICS Definitions, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹⁷⁷ 13 C.F.R. § 121.201, NAICS code 334220.

According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.¹⁷⁸ Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.¹⁷⁹ Thus, under this size standard, the majority of firms can be considered small.

60. *Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)."¹⁸⁰ The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees.¹⁸¹ According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year.¹⁸² Of this total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999.¹⁸³ Thus, under this size standard, the majority of firms can be considered small.

61. SBA small business size standards are given in terms of "firms." Census Bureau data concerning computer manufacturers, on the other hand, are given in terms of "establishments." We note that the number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the census numbers provided below may reflect inflated numbers of businesses in the given category, including the numbers of small businesses.

62. *Electronic Computer Manufacturing.* This category "comprises establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers."¹⁸⁴ The SBA has developed a small business

¹⁷⁸ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks out data for firms or companies only to give the total number of such entities for 2002, which was 929.

¹⁷⁹ *Id.* An additional 18 establishments had employment of 1,000 or more.

¹⁸⁰ U.S. Census Bureau, 2002 NAICS Definitions, "334290 Other Communications Equipment Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹⁸¹ 13 C.F.R. § 121.201, NAICS code 334290.

¹⁸² U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334290 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks out data for firms or companies only to give the total number of such entities for 2002, which was 471.

¹⁸³ *Id.* An additional 3 establishments had employment of 1,000 or more.

¹⁸⁴ U.S. Census Bureau, 2002 NAICS Definitions, "334111 Electronic Computer Manufacturing"; <http://www.census.gov/epcd/naics02/def/ND334111.HTM#N334111>.

size standard for this category of manufacturing; that size standard is 1,000 or fewer employees.¹⁸⁵ According to Census Bureau data, there were 485 establishments in this category that operated with payroll during 2002.¹⁸⁶ Of these, 476 had employment of under 1,000, and an additional four establishments had employment of 1,000 to 2,499. Consequently, we estimate that the majority of these establishments are small entities.

63. *Computer Storage Device Manufacturing.* These establishments manufacture “computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.”¹⁸⁷ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees.¹⁸⁸ According to Census Bureau data, there were 170 establishments in this category that operated with payroll during 2002.¹⁸⁹ Of these, 164 had employment of under 500, and five establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities

64. *Computer Terminal Manufacturing.* “Computer terminals are input/output devices that connect with a central computer for processing.”¹⁹⁰ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees.¹⁹¹ According to Census Bureau data, there were 71 establishments in this category that operated with payroll during 2002, and all of the establishments had employment of under 1,000.¹⁹² Consequently, we estimate that all of these establishments are small entities.

65. *Other Computer Peripheral Equipment Manufacturing.* Examples of peripheral equipment in this category include keyboards, mouse devices, monitors, and scanners.¹⁹³ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees.¹⁹⁴ According to Census Bureau data, there were 860 establishments in this category that operated with payroll during 2002.¹⁹⁵ Of these, 851 had employment of under 1,000, and an additional five establishments had employment of 1,000 to 2,499. Consequently, we estimate that the majority of these establishments are small entities.

66. *Audio and Video Equipment Manufacturing.* These establishments manufacture “electronic

¹⁸⁵ 13 C.F.R. § 121.201, NAICS code 334111.

¹⁸⁶ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electronic Computer Manufacturing,” Table 4, NAICS code 334111 (issued Dec. 2004).

¹⁸⁷ U.S. Census Bureau, 2002 NAICS Definitions, “334112 Computer Storage Device Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334112.HTM#N334112>.

¹⁸⁸ 13 C.F.R. § 121.201, NAICS code 334112.

¹⁸⁹ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Computer Storage Device Manufacturing,” Table 4, NAICS code 334112 (issued Dec. 2004).

¹⁹⁰ U.S. Census Bureau, 2002 NAICS Definitions, “334113 Computer Terminal Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334113.HTM#N334113>.

¹⁹¹ 13 C.F.R. § 121.201, NAICS code 334113.

¹⁹² U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Computer Terminal Manufacturing,” Table 4, NAICS code 334113 (issued Dec. 2004). In fact, all had employment of under 500.

¹⁹³ U.S. Census Bureau, 2002 NAICS Definitions, “334119 Other Computer Peripheral Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334119.HTM#N334119>.

¹⁹⁴ 13 C.F.R. § 121.201, NAICS code 334119.

¹⁹⁵ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Other Computer Peripheral Equipment Manufacturing,” Table 4, NAICS code 334119 (issued Dec. 2004).

audio and video equipment for home entertainment, motor vehicle, public address and musical instrument amplifications.”¹⁹⁶ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees.¹⁹⁷ According to Census Bureau data, there were 571 establishments in this category that operated with payroll during 2002.¹⁹⁸ Of these, 560 had employment of under 500, and ten establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

67. *Electron Tube Manufacturing.* These establishments are “primarily engaged in manufacturing electron tubes and parts (except glass blanks).”¹⁹⁹ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees.²⁰⁰ According to Census Bureau data, there were 102 establishments in this category that operated with payroll during 2002.²⁰¹ Of these, 97 had employment of under 500, and one establishment had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

68. *Bare Printed Circuit Board Manufacturing.* These establishments are “primarily engaged in manufacturing bare (i.e., rigid or flexible) printed circuit boards without mounted electronic components.”²⁰² The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²⁰³ According to Census Bureau data, there were 936 establishments in this category that operated with payroll during 2002.²⁰⁴ Of these, 922 had employment of under 500, and 12 establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

69. *Semiconductor and Related Device Manufacturing.* Examples of manufactured devices in this category include “integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices.”²⁰⁵ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²⁰⁶ According to Census Bureau data, there were 1,032 establishments in this category that operated with payroll during 2002.²⁰⁷ Of these,

¹⁹⁶ U.S. Census Bureau, 2002 NAICS Definitions, “334310 Audio and Video Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334310.HTM#N334310>.

¹⁹⁷ 13 C.F.R. § 121.201, NAICS code 334310.

¹⁹⁸ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Audio and Video Equipment Manufacturing,” Table 4, NAICS code 334310 (issued Dec. 2004).

¹⁹⁹ U.S. Census Bureau, 2002 NAICS Definitions, “334411 Electron Tube Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334411.HTM#N334411>.

²⁰⁰ 13 C.F.R. § 121.201, NAICS code 334411.

²⁰¹ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electron Tube Manufacturing,” Table 4, NAICS code 334411 (issued Dec. 2004).

²⁰² U.S. Census Bureau, 2002 NAICS Definitions, “334412 Bare Printed Circuit Board Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334412.HTM#N334412>.

²⁰³ 13 C.F.R. § 121.201, NAICS code 334412.

²⁰⁴ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Bare Printed Circuit Board Manufacturing,” Table 4, NAICS code 334412 (issued Jan. 2005).

²⁰⁵ U.S. Census Bureau, 2002 NAICS Definitions, “334413 Semiconductor and Related Device Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334413.HTM#N334413>.

²⁰⁶ 13 C.F.R. § 121.201, NAICS code 334413.

²⁰⁷ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Semiconductor and Related Device Manufacturing,” Table 4, NAICS code 334413 (issued Jan. 2005).

950 had employment of under 500, and 42 establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

70. *Electronic Capacitor Manufacturing.* These establishments manufacture “electronic fixed and variable capacitors and condensers.”²⁰⁸ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²⁰⁹ According to Census Bureau data, there were 104 establishments in this category that operated with payroll during 2002.²¹⁰ Of these, 101 had employment of under 500, and two establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

71. *Electronic Resistor Manufacturing.* These establishments manufacture “electronic resistors, such as fixed and variable resistors, resistor networks, thermistors, and varistors.”²¹¹ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²¹² According to Census Bureau data, there were 79 establishments in this category that operated with payroll during 2002.²¹³ All of these establishments had employment of under 500. Consequently, we estimate that all of these establishments are small entities.

72. *Electronic Coil, Transformer, and Other Inductor Manufacturing.* These establishments manufacture “electronic inductors, such as coils and transformers.”²¹⁴ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²¹⁵ According to Census Bureau data, there were 365 establishments in this category that operated with payroll during 2002.²¹⁶ All of these establishments had employment of under 500. Consequently, we estimate that all of these establishments are small entities.

73. *Electronic Connector Manufacturing.* These establishments manufacture “electronic connectors, such as coaxial, cylindrical, rack and panel, pin and sleeve, printed circuit and fiber optic.”²¹⁷ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²¹⁸ According to Census Bureau data, there were 321 establishments

²⁰⁸ U.S. Census Bureau, 2002 NAICS Definitions, “334414 Electronic Capacitor Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334414.HTM#N334414>.

²⁰⁹ 13 C.F.R. § 121.201, NAICS code 334414.

²¹⁰ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electronic Capacitor Manufacturing,” Table 4, NAICS code 334414 (issued Jan. 2005).

²¹¹ U.S. Census Bureau, 2002 NAICS Definitions, “334415 Electronic Resistor Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334415.HTM#N334415>.

²¹² 13 C.F.R. § 121.201, NAICS code 334415.

²¹³ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electronic Resistor Manufacturing,” Table 4, NAICS code 334415 (issued Jan. 2005).

²¹⁴ U.S. Census Bureau, 2002 NAICS Definitions, “334416 Electronic Coil, Transformer, and Other Inductor Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334416.HTM#N334416>.

²¹⁵ 13 C.F.R. § 121.201, NAICS code 334416.

²¹⁶ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electronic Coil, Transformer, and Other Inductor Manufacturing,” Table 4, NAICS code 334416 (issued Jan. 2005).

²¹⁷ U.S. Census Bureau, 2002 NAICS Definitions, “334417 Electronic Connector Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334417.HTM#N334417>.

²¹⁸ 13 C.F.R. § 121.201, NAICS code 334417.

in this category that operated with payroll during 2002.²¹⁹ Of these, 315 had employment of under 500, and three establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

74. *Printed Circuit Assembly (Electronic Assembly) Manufacturing.* These are establishments “primarily engaged in loading components onto printed circuit boards or who manufacture and ship loaded printed circuit boards.”²²⁰ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²²¹ According to Census Bureau data, there were 868 establishments in this category that operated with payroll during 2002.²²² Of these, 839 had employment of under 500, and 18 establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

75. *Other Electronic Component Manufacturing.*²²³ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees.²²⁴ According to Census Bureau data, there were 1,627 establishments in this category that operated with payroll during 2002.²²⁵ Of these, 1,616 had employment of under 500, and eight establishments had employment of 500 to 999. Consequently, we estimate that the majority of these establishments are small entities.

76. *Fiber Optic Cable Manufacturing.* These establishments manufacture “insulated fiber-optic cable from purchased fiber-optic strand.”²²⁶ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees.²²⁷ According to Census Bureau data, there were 96 establishments in this category that operated with payroll during 2002.²²⁸ Of these, 95 had employment of under 1,000, and one establishment had employment of 1,000 to 2,499. Consequently, we estimate that the majority or all of these establishments are small entities.

77. *Other Communication and Energy Wire Manufacturing.* These establishments manufacture “insulated wire and cable of nonferrous metals from purchased wire.”²²⁹ The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer

²¹⁹ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Electronic Connector Manufacturing,” Table 4, NAICS code 334417 (issued Jan. 2005).

²²⁰ U.S. Census Bureau, 2002 NAICS Definitions, “334418 Printed Circuit Assembly (Electronic Assembly) Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334418.HTM#N334418>.

²²¹ 13 C.F.R. § 121.201, NAICS code 334418.

²²² U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Printed Circuit Assembly (Electronic Assembly) Manufacturing,” Table 4, NAICS code 334418 (issued Jan. 2005).

²²³ U.S. Census Bureau, 2002 NAICS Definitions, “334419 Other Electronic Component Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND334419.HTM#N334419>.

²²⁴ 13 C.F.R. § 121.201, NAICS code 334419.

²²⁵ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Other Electronic Component Manufacturing,” Table 4, NAICS code 334419 (issued Jan. 2005).

²²⁶ U.S. Census Bureau, 2002 NAICS Definitions, “335921 Fiber Optic Cable Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND335921.HTM#N335921>.

²²⁷ 13 C.F.R. § 121.201, NAICS code 335921.

²²⁸ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, “Fiber Optic Cable Manufacturing,” Table 4, NAICS code 335921 (issued Dec. 2004).

²²⁹ U.S. Census Bureau, 2002 NAICS Definitions, “335929 Other Communication and Energy Wire Manufacturing”; <http://www.census.gov/epcd/naics02/def/ND335929.HTM#N335929>.

employees.²³⁰ According to Census Bureau data, there were 356 establishments in this category that operated with payroll during 2002.²³¹ Of these, 353 had employment of under 1,000, and three establishments had employment of 1,000 to 2,499. Consequently, we estimate that the majority or all of these establishments are small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

78. *Disability Access Requirements.*²³² We require providers of interconnected VoIP service and specialized equipment and CPE manufacturers to maintain records pertaining to their disability access compliance efforts and to designate, and submit contact information for, an agent for service of disability access-related inquiries or complaints. In addition, the rules we adopt today: (1) require *manufacturers* of specialized interconnected VoIP equipment or CPE to ensure that their equipment is designed, developed and fabricated to be accessible to individuals with disabilities, if readily achievable and, where such accessibility is not readily achievable, to ensure that the equipment is compatible with existing peripheral devices or specialized CPE, if readily achievable; (2) require interconnected VoIP *providers* to ensure that their service is accessible to individuals with disabilities, if readily achievable and, where such accessibility is not readily achievable, to ensure that the service is compatible with existing peripheral devices or specialized CPE, if readily achievable; (3) require covered manufacturers and service providers to evaluate the accessibility, usability, and compatibility of covered services and equipment throughout the design and development process; and (4) require covered manufacturers and service providers to ensure that information and documentation provided in connection with equipment or services be accessible to people with disabilities, where readily achievable, and that employee training, where provided at all, account for accessibility requirements.

79. *TRS Requirements.*²³³ We require providers of interconnected VoIP service to comply with the TRS requirements contained in our regulations, 47 C.F.R. §§ 64.601 *et seq.* Among the TRS requirements that we extend to interconnected VoIP providers, we require such providers to contribute to the Interstate TRS Fund under the Commission's existing contribution rules, and to offer 711 abbreviated dialing for access to relay services. These providers will contribute to the Interstate TRS Fund through monthly or annual payments into the Fund as specified in the Commission's TRS rules. Interconnected VoIP provider payments into the Fund will be assessed on the basis of revenue information these providers currently submit to USAC on the FCC Form 499-A.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

80. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.²³⁴

²³⁰ 13 C.F.R. § 121.201, NAICS code 335929.

²³¹ U.S. Census Bureau, 2002 Economic Census, Industry Series: Manufacturing, "Other Communication and Energy Wire Manufacturing," Table 4, NAICS code 335929 (issued Dec. 2004).

²³² See *Order* at paras. 16-20, 25-31.

²³³ See *Order* at paras. 16, 32-33, 36-40.

²³⁴ 5 U.S.C. § 603(c).

81. The Commission has considered how best to minimize any significant economic impact on small entities and, in today's *Order*, has attempted to impose minimal regulation on small entities to the extent consistent with its goal of ensuring that individuals with disabilities have access to critical "POTS-like" communications services and equipment. We have taken several steps to minimize the economic impact on small entities. For example, although we require covered entities to maintain records of their accessibility efforts that can be presented to the Commission to demonstrate compliance, we do not delineate specific documentation or certification requirements for "readily achievable" analyses. In addition, by adopting general performance criteria, as opposed to accessibility standards or performance measurements specifying exactly how access must be achieved, our rules provide small entities flexibility in determining how best to manage their compliance with these rules. Moreover, by adopting the "readily achievable" standard that currently applies to telecommunications service providers and manufacturers, covered interconnected VoIP providers and manufacturers are required to render their services or products accessible only if doing so is "easily accomplishable and able to be carried out without much difficulty or expense." Inasmuch as interconnected VoIP providers will be permitted to file the identical Telecommunications Reporting Worksheet (FCC Form 499-A) for the TRS reporting requirements that these providers currently file in connection with the USF reporting requirements, there will be no increased reporting burden on small businesses. Finally, interconnected VoIP providers whose interstate end-user revenues are deemed *de minimis* under the Commission's TRS rules and procedures in a given Fund year, will be required to contribute only \$25 for that year. These measures should substantially alleviate any economic burdens on small entities.

82. In taking the actions described above, the Commission undertook to assess the interests of small businesses in light of the overriding public interest in, and statutory goal of, making critical communications services accessible by and to all Americans. Therefore, the Commission concluded that it was important for *all* providers of interconnected VoIP service and covered manufacturers, including small businesses, to comply with the rules we adopt today, and we rejected alternative solutions that would have exempted small businesses from these requirements. The record indicated that exempting small carriers from these requirements would compromise the Commission's goal of ensuring access to critical communications services for *all* Americans.

83. **Report to Congress:** The Commission will send a copy of the *Order*, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.²³⁵ In addition, the Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the Federal Register.²³⁶

²³⁵ See 5 U.S.C. § 801(a)(1)(A).

²³⁶ See 5 U.S.C. § 604(b).

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: In the Matter of IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities, WC Docket No. 04-36, WT Docket No. 96-198.

Congress mandated that all Americans, including those with disabilities, benefit from advances in telecommunications services and equipment. Nearly eight years ago, the Commission adopted rules to ensure that both telecommunications equipment manufacturers and service providers develop and offer equipment and services in a manner that is accessible to individuals with disabilities.

Telecommunications service providers are obligated to contribute to the Telecommunications Relay Services Fund, supporting interstate relay services that help to provide functionally equivalent communications services for individuals with disabilities. Today, we extend these important accessibility and contribution obligations to the provision of interconnected VoIP.

The Commission repeatedly has found that VoIP services are increasingly being marketed and used as a substitute for traditional landline phones. While technologies will continue to evolve, core social goals in the Act regarding the provision of communications services to all remain unchanged.

Since I became Chairman, the Commission has consistently acted to define the appropriate social obligations that apply to evolving classes of broadband services, including VoIP. In 2005, the Commission determined to extend to interconnected VoIP providers E911 obligations, vital to public safety. The Commission also ensured that law enforcement surveillance obligations apply to new, as well as traditional communications services, including interconnected VoIP and broadband. We have also addressed appropriate application of the obligation to contribute to the support of the universal service programs, helping to ensure that communications services are available to all Americans. And earlier this year, the Commission extended obligations to interconnected VoIP providers to protect the privacy of customer information. Today, I am pleased that we extend the important disabilities accessibility and program support obligations in the Act to interconnected VoIP.

Although today's item does not address all of the remaining policy goals, it is a critically important step. We continue to evaluate the remaining obligations including: numbering (access to numbering resources, number portability obligations, and numbering support obligations) and consumer protection issues (service discontinuance notifications, slamming, and billing issues, etc). I hope that by addressing these obligations, the Commission will be able to continue to protect the interests of consumers and establish a competitively neutral playing field for competing services.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *In the Matters of IP-Enabled Services, WC Docket No. 04-36; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96-198; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105.*

I am pleased to support today's Order because it takes a good step forward to assist the disability community to take full advantage of the services and equipment becoming available in an IP-based world. Improvements in communications technologies, such as cell phones, email, text messaging and videoconferencing, have made the quality of our daily lives better in so many ways for most of us. But these improvements that so many of us take for granted can often be absolutely life-altering for people with disabilities. If they have these new technologies and services available, they have a much better chance to get connected and stay connected with first responders, doctors, employers, family and friends. So we help meet our statutory mission here to ensure that *all* Americans, and that certainly includes some 54 million Americans with disabilities, benefit from advances in telecommunications.

When consumers pick up a phone, they don't worry about whether it is an interconnected VOIP service or a traditional phone service – nor should there be any concern. Therefore it makes sense for the Commission to extend the requirements of section 255 to interconnected VOIP service providers and equipment manufacturers. Section 255 requires, among other things, that equipment manufacturers design and develop their equipment to be accessible for persons with disabilities and that providers ensure that their services are available to this community. I see no reason why these responsibilities should apply any differently to VOIP. We first teed up this question when the Commission adopted its disability access rules in 1999 and again in an NPRM in 2004. Services delayed are services denied, to paraphrase an old aphorism, so clearly it is time for us to act.

I commend the Chairman for getting this Order across the finish line and for working with us to address our concern that the responsibilities set forth in section 225 be required of interconnected VOIP providers, including making 7-1-1 services available for those with hearing and speech disabilities and requiring providers to contribute to the TRS fund. I also appreciate his willingness to recognize in the Order that other issues remain to be addressed as the disabilities community relies on new IP technologies like real time text for both personal and emergency services. Finally, it is my hope that this Order will inspire the VOIP industry to meet and even to go beyond the requirements in this order and inspire the Commission to move quickly on the other important issues in our IP-enabled Services docket which continue to go unaddressed. That said, this is a good Order and I am pleased to support it.

Some of our good friends from the disabilities communities are here with us this afternoon, others were here for this morning's scheduled meeting but had to leave to meet other commitments when our computers all went down, but I want to thank them all for their work on this and the other items before us today and for their tireless engagement in helping us see the light and do the right thing.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123, CC Docket No. 92-105.

In this Order, we take important steps to implement Congress' vision that the promise of new communications technology should benefit all Americans, including those with disabilities. We advance that vision by extending the disability access requirements of the Act to providers of interconnected VoIP services and equipment, and by ensuring that interconnected VoIP providers contribute to the interstate TRS Fund.

Through sections 225 and 255 of the Act, Congress codified important principles that have ensured access to functionally-equivalent services for persons with disabilities. I strongly believe that we must extend the ADA's important protections beyond the world of narrowband telephone service, so I am pleased to support this item.

With consumers and businesses increasingly migrating to interconnected VoIP, we must ensure that providers of those services and manufacturers of equipment or CPE that is specially designed to provide them comply with the requirements of section 255. Particularly as many consumers forego the use of their traditional phone service and as VoIP is embraced in the workplace, these new services must provide for "reasonably achievable" accessibility. Millions of Americans with disabilities should not have to worry if their phone service will work in the manner in which they have come to expect, such as supporting the use of TTYs and shortened dialing codes like 711. This accessibility is critical in order to promote the independence of persons with disabilities, participation in our society, and critical access in emergency situations.

Indeed, Americans with disabilities can benefit from widely-available and accessible interconnected VoIP services. More broadly, IP protocols are increasingly allowing services to combine voice, video, and text in ways that will allow persons with disabilities to communicate far more effectively. Applying section 255 to interconnected VoIP services and equipment will help ensure that accessibility issues are considered early in the development process, which should lessen the need to retrofit regulatory and technical protections after the-fact. At the same time, there is much work to be done to develop specific standards, so I encourage all parties to continue to work toward the common goals of accessibility, functional equivalence, and innovation.

This Order also correctly concludes that providers of interconnected VoIP services should contribute to the TRS Fund. If an interconnected VoIP service provider shares in the benefits of having the ability to access and use TRS or Video Relay Service (VRS), which draws more customers to their service, they should also share in the burdens by contributing to the fund. This action provides a broader and more sustainable base of contributors to the TRS Fund, but it is worth noting that we have more work to do. Particularly as we come to the close of the current funding year, it is important that we move forward with our review of the rate-setting mechanisms and that we work to inject more transparency and predictability in that process.

I want to thank the Chairman and the Bureau for their hard work on this item, and I look forward to working with them, my colleagues, and the disability community as we turn to the challenges ahead.

**STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE**

Re: IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123, CC Docket No. 92-105.

Congress intended for *all* Americans to benefit from advances in telecommunications services and equipment, and this item does just that, both by stabilizing the funding base for TRS services and by extending accessibility requirements to the interconnected VoIP services which millions of Americans are now substituting for traditional voice service. Given the rapid marketplace adoption of interconnected VoIP, I am pleased that we are making these obligations clear at an early stage so that we avoid unnecessary market distortion. While I continue to advocate a light regulatory touch for developing services like interconnected VoIP, it is essential that important goals like universal access by all our citizens are implemented in an equitable and non-discriminatory manner across platforms and service-providers.

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

Re: IP-Enabled Services; Implementation of Sections 255 and 251 (a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, The Use of N11 Codes and Other Abbreviated Dialing Arrangements, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123, CC Docket No. 92-105.

The fundamental mission of government is to help those who can't help themselves in the absence of a private sector solution. Today we do just that. Our action helps Americans with disabilities access communications services and equipment needed to improve the quality of their lives, or perhaps to save their lives.

Today, we appropriately extend Section 255 obligations of accessibility for individuals with disabilities to providers of interconnected VoIP services and manufacturers of specialized interconnected VoIP equipment and CPE. Similarly, we require providers of interconnected VoIP services to provide Telecommunications Relay Services (TRS) and 711 abbreviated dialing for TRS access, as well as to contribute to the Interstate TRS Fund. These actions are consistent with the letter and spirit of Sections 225 and 255.

The Commission, under the leadership of Chairman Martin and with the able assistance of the Consumer and Governmental Affairs Bureau, has consistently and diligently worked to carry out the directives of the Communications Act that the hearing and speech impaired community have available "functionally equivalent" communications services. Because VoIP services are rapidly becoming a substitute for traditional phone service in the marketplace, it is imperative that we extend accessibility obligations to those services. Also, today's action is consistent with previous Commission decisions to assure that the ever-increasing number of VoIP service customers have the same protections, accessibility and features as traditional telephone service, such as emergency 911 calling capabilities, universal service contribution obligations, and customer proprietary network information protections.

I wholeheartedly support this effort to improve the availability and choices of services that allow the hearing and speech impaired community to obtain "functionally equivalent" communications services.